

IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

CIVIL REVISION APPLICATION No 1223 of 1996

For Approval and Signature:

Hon'ble MR.JUSTICE J.N.BHATT

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1. Whether Reporters of Local Papers may be allowed to see the judgements?
 2. To be referred to the Reporter or not?
 3. Whether Their Lordships wish to see the fair copy of the judgement?
 4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 of any Order made thereunder?
 5. Whether it is to be circulated to the Civil Judge?

NENSHI LADHUBHAI THAKKAR

Versus

CHAMPABEN HARILAL CHHEDA THRO'POWER OF ATTON.LADUBAI CHHEDA

Appearance:

MR YS MANKAD for Petitioner

Mr. Harilal D. Shah, power-of-attorney
holder/party-in-person.

CORAM : MR.JUSTICE J.N.BHATT

Date of decision: 26/08/96

ORAL JUDGEMENT :

Rule. Service of rule is waived by the power-of-attorney holder Shri Harilal D. Shah, husband of the opponent, for and on behalf of the opponent who has filed reply-affidavit in detail in Civil Application No.6938 of 1996 along with a copy of the power-of-attorney.

2. After hearing the learned counsel Shri Y.S. Mankad for the petitioner and the power-of-attorney of the opponent /original plaintiff in person and considering the facts and circumstances of the case, this Revision Application is allowed and the the judgment and decree dated 10.1.1995 passed by Extra Assistant Judge, Kutch-Bhuj in Civil Regular Appeal No.62/88 is set aside, directing the District Court, Kutch-Bhuj to restore the matter - Regular Civil Appeal No.62/88 - and dispose it of in accordance with law, after hearing both the parties on merits. The District Court is directed to hear the said appeal on its restoration to its original number as expeditiously as possible, preferably by the end of December 1996. Learned advocate Shri Mankad states that the petitioner will engage another advocate who will remain present before the appellate court as and when the appeal is heard for final hearing.

3. The power-of-attorney holder Shri Harilal D. Shah states that cost of Rs.2,000/- should be paid to him as he is put to hardship and had to incur expenditure for no fault of the opponent. Considering the facts and circumstances, while allowing this Revision Application, the petitioner is directed to pay the cost to the opponent which is quantified at Rs.2,000/- (Rupees two thousand only) on or before 9th September 1996.

4. Learned counsel Shri Mankad states, under instructions from the petitioner who is present in the Court, that the amount of cost will be deposited in the court or paid to the other side on or before 9th September 1996. The power-of-attorney of the opponent states that since he appears in person on behalf of the opponent, the amount may be paid to him in cash. Learned counsel Shri Mankad has no objection to make payment of the aforesaid cost in cash to the opponent on 9th September 1996.

5. In these circumstances, this Revision Application is allowed. Rule is made absolute to the aforesaid extent.

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